



## RESOLUTION

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APPROVING FOR INCLUSION IN THE 2014 HAWAII STATE ASSOCIATION OF COUNTIES ("HSAC") LEGISLATIVE PACKAGE A PROPOSAL THAT PROVIDES FLEXIBLE DESIGN GUIDELINES FOR SIDEWALKS.

WHEREAS, the Americans with Disabilities Act of 1990 (ADA Act) requires that all newly constructed and altered facilities, including sidewalks, be readily accessible to persons with disabilities; and

WHEREAS, there are areas of the City, particularly rural areas, that lack safe pathways for pedestrians; and

WHEREAS, in some instances, sidewalks have not been constructed because construction of ADA compliant sidewalks is cost prohibitive and requires condemnation of private property to provide sufficient rights-of-way to meet design requirements; and

WHEREAS, in instances where construction of ADA compliant sidewalks is cost prohibitive or requires condemnation, it may be possible to construct an alternative facility, such as asphalt footpaths, which are comparably cost-effective and may not require the condemnation of private property; and

WHEREAS, construction of non-ADA compliant footpaths where no sidewalk exists would be an improvement over existing conditions and increase safety and mobility for many residents; and

WHEREAS, Hawaii Revised Statutes section 264-8 provides that the director of transportation shall prescribe specifications, standards and procedures for the installation and construction of sidewalks; and

WHEREAS, Hawaii Revised Statutes section 264-20 provides that the Department of Transportation and county may select or apply flexible highway design guidelines after considering several listed factors; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it approves for inclusion in the 2014 Hawaii State Association of Counties legislative package a proposal, attached as Exhibit A, that requires design flexibility for sidewalks so that the relative cost and benefit of alternatives and minimizing condemnation of private property can be considered; and



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

No. 13-194

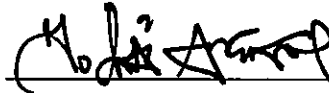
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**RESOLUTION**

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BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the President of the Hawaii State Association of Counties.

INTRODUCED BY:



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2013 AUG 14 PM 1:30

CLERK

DATE OF INTRODUCTION:

**AUG 14 2013**

Honolulu, Hawaii

Councilmembers

## **EXHIBIT A**

\_\_\_\_.B. NO.\_\_\_\_

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## A BILL FOR AN ACT

RELATING TO SIDEWALKS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The purpose of this Act is to provide design  
2 flexibility for sidewalks where compliance with American with  
3 Disabilities Act requirements is cost-prohibitive or requires  
4 condemnation of private property.

5       SECTION 2. Section 264-20, Hawaii Revised Statutes, is  
6 amended to read as follows:

7       "\$264-20 Flexibility in highway design; liability of  
8 State, counties, and public utilities. (a) If a highway,  
9 including any bridge, principal and minor arterial road,  
10 collector and local road, ~~[or]~~ street, or sidewalk, requires new  
11 construction, reconstruction, preservation, resurfacing (except  
12 for maintenance surfacing), restoration, or rehabilitation, the  
13 department of transportation with regard to a state highway, or  
14 a county with regard to a county highway, may select or apply  
15 flexible highway design guidelines consistent with practices  
16 used by the Federal Highway Administration, ~~[and]~~ the American

\_\_\_\_.B. NO. \_\_\_\_\_

1 Association of State Highway and Transportation Officials, and  
2 where permitted under the Federal Americans with Disabilities  
3 Act. Flexibility in highway design shall consider, among other  
4 factors:

- 5 (1) Safety, durability, and economy of maintenance;
- 6 (2) The constructed and natural environment of the area;
- 7 (3) Community development plans and relevant county  
8 ordinances;
- 9 (4) Sites listed on the State or National Register of  
10 Historic Places;
- 11 (5) The environmental, scenic, aesthetic, historic,  
12 community, and preservation impacts of the activity;
- 13 (6) Access for other modes of transportation, including  
14 but not limited to bicycle and pedestrian  
15 transportation;
- 16 (7) Access to and integration of sites deemed culturally  
17 and historically significant to the communities  
18 affected;
- 19 (8) Relative cost and benefit of alternatives;
- 20 (9) Minimizing condemnation of private property;
- 21 ~~[(8)]~~ (10) Acceptable engineering practices and standards;  
22 and

\_\_\_\_.B. NO. \_\_\_\_\_

1       ~~[(9)]~~ (11) Safety studies and other pertinent research.

2           (b) Any other law to the contrary notwithstanding, any  
3 decision by the State, the department of transportation, a  
4 county, or any officers, employees, or agents of the State, the  
5 department of transportation, or a county to select or apply  
6 flexibility in highway design pursuant to this section and  
7 consistent with the practices used by the Federal Highway  
8 Administration and the American Association of State Highway and  
9 Transportation Officials shall not give rise to a cause of  
10 action or claim against:

11           (1) The State;

12           (2) The department of transportation;

13           (3) The counties;

14           (4) Any public utility regulated under chapter 269 that  
15 places its facilities within the highway right-of-way;

16           or

17           (5) Any officer, employee, or agent of an entity listed in  
18 paragraphs (1) to (4).

19           (c) The exception to liability provided in subsection (b)  
20 applies only to the decision to select or apply flexibility in  
21 highway design pursuant to this section and does not extend to

\_\_\_\_.B. NO. \_\_\_\_\_

1 design, construction, repair, correction, or maintenance

2 inconsistent with subsection (a).

3 SECTION 3. Statutory material to be repealed is bracketed

4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon approval.

6 INTRODUCED BY: \_\_\_\_\_

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CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
C E R T I F I C A T E

**RESOLUTION 13-194**

Introduced: 08/14/13 By: IKAICA ANDERSON

Committee: INTERGOVERNMENTAL  
AFFAIRS AND HUMAN  
SERVICES

Title: RESOLUTION APPROVING FOR INCLUSION IN THE 2014 HAWAII STATE ASSOCIATION OF COUNTIES ("HSAC") LEGISLATIVE PACKAGE A PROPOSAL THAT PROVIDES FLEXIBLE DESIGN GUIDELINES FOR SIDEWALKS.

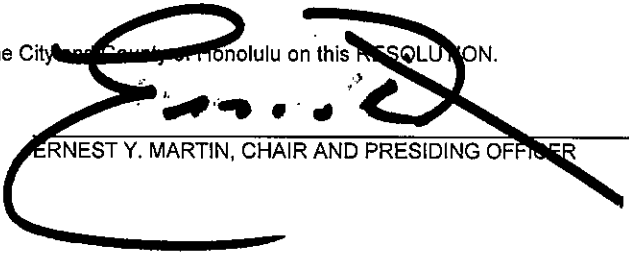
VERSIONS:	COMMITTEE REPORTS:	MEETINGS: MINUTES & VIDEOS	COMMUNICATIONS/ TESTIMONIES (If Any):
<a href="#">RES13-194</a>	<a href="#">CR-266</a>	<a href="#">VIDEOS – Click Here</a>	<a href="#">Click Here</a>

Voting Legend: \* = Aye w/Reservations

08/22/13	INTERGOVERNMENTAL AFFAIRS AND HUMAN SERVICES	CR-266 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.
09/11/13	COUNCIL	CR-266 AND RESOLUTION 13-194 WERE ADOPTED. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.

  
BERNICE K. N. MAU, CITY CLERK

  
ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER